

REMARKS

Claims 1-43 are pending in this application, of which claims 1 and 2 are independent. Claims 1, 3, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39 and 41 stand withdrawn from consideration pursuant to the previous restriction requirement.

Claims 4, 5, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, 42 and 43 were objected to and would be allowed if recast in independent form. The Examiner indicated that claim 43 would be allowed if recast in independent form and included subject matter of the elected claims and not the withdrawn claims.

Claim 2 was rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Itoh (U.S. Patent No. 6,042,234, hereinafter "Itoh"). In the statement of the rejection, the Examiner referred to FIGS. 1-3 of Itoh, asserting the disclosure of a color separating and mixing element corresponding to that defined in claim 2. Applicants respectfully traverse.

The Examiner asserted that claim 2 does not require that the light separating and synthesizing optical element have both polarization dependency and wavelength selectivity. The Examiner asserted that claim 2 only requires that at least three lights are incident on the cube, one of which is incident on the first face, and two that are incident on the second face. The Examiner further asserted that claim 2 does not require that their color be different or that their polarization be different, but rather, the claim only requires that they behave in a specific way after reflecting off of the first through third optical function surfaces. Applicants request reconsideration and withdrawal of the rejection. Moreover, Applicants respectfully submit that the Examiner's rejection is predicated upon an apparent misunderstanding of the present application and the teachings of Itoh.

The polarized light separating and synthesizing optical element of Itoh separates and synthesizes light only by polarization dependency. That is, the polarized light separating and synthesizing optical element of Itoh does not have selectivity related to color (wavelength selectivity). On the contrary, the first optical function surface and the second optical function surface recited in present claim 2 have both polarization dependency and wavelength selectivity. Therefore, claim 2 of the present application and Itoh have completely different configuration and function. Claim 2, as amended, explicitly recites a specific wavelength dependency and specific polarization dependency.

The Examiner's attention is respectfully invited to page 14, [0037]. As shown in Fig. 1 of the present application, a color separating and mixing element 50 comprises, in its transparent glass cube, a first optical function surface 50a composed of a multilayer dielectric film or the like formed on a dividing surface for dividing the cube into two triangular prisms, and a second optical function surface 50b composed of a multilayer dielectric film or the like formed on another dividing surface. For example, the first optical function surface 50a is arranged so as to connect an upper side on the innermost side of the transparent cube and a lower side on the front side thereof to each other, as shown in Fig. 2 (a). The first optical function surface 50a has the function of transmitting both P-polarized light and S-polarized light with respect to red light, has the function of transmitting both P-polarized light and S-polarized light with respect to green light, and has the function of transmitting P-polarized light and reflecting S-polarized light with respect to blue light. On the other hand, the second optical function surface 50b is arranged so as to connect a longitudinal side on the left innermost side of the transparent cube and a longitudinal side on the right front side thereof to each other, as shown in Fig. 2 (b). The second optical function surface 50b has the function of transmitting P-polarized light and reflecting S-

polarized light with respect to red light, has the function of transmitting P-polarized light and reflecting S-polarized light with respect to green light, and has the function of transmitting both P-polarized light and S-polarized light with respect to blue light.

The above argued differences between the claimed subject matter and the device of Itoh undermines the factual determination that Itoh identically discloses a device corresponding to that claimed. *Minnesota Mining & Manufacturing Co. v. Johnson & Johnson Orthopaedics Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992); *Kloster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565, 230 U.S.P.Q. 86 (Fed. Cir. 1986). Applicants, therefore, submit that the imposed rejection of claim 2 under 35 U.S.C. § 102 for lack of novelty as evidenced by Itoh is not factually viable and, hence, solicit withdrawal thereof.

It is believed that all pending claims are now in condition for allowance. Applicants therefore respectfully request an early and favorable reconsideration and allowance of this application. If there are any outstanding issues which might be resolved by an interview or an Examiner's amendment, the Examiner is invited to call Applicants' representative at the telephone number shown below.

**Application No.: 10/809,477**

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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